

OCT 27 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN STEVE TOLEDO,

Defendant - Appellant.

No. 04-10160

D.C. No. CR-02-00179-1-HG

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding

Submitted October 11, 2005^{**}

Before: T.G. NELSON, WARDLAW and TALLMAN, Circuit Judges.

John Steve Toledo appeals his 85-month sentence imposed following his guilty plea conviction for conspiracy to manufacture in excess of 50 grams of methamphetamine in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A), and knowing

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

possession of a firearm by an unlawful user of a controlled substance in violation of 18 U.S.C. § 922(g)(3). We have jurisdiction pursuant to 28 U.S.C. § 1291.

We dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (holding that the changes in sentencing law imposed by *United States v. Booker*, 125 S. Ct. 738 (2005), did not render waiver of appeal involuntary and unknowing).

DISMISSED.